

REMARKS

I. Introduction

With the addition of new claim 30, claims 1 to 27, 29, and 30 are currently pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Objection to the Claims

Claim 29 was objected to for informalities. While the objection may not be agreed with, to facilitate matters, claim 29 has been amended herein without prejudice to obviate the present objection. Approval and entry are respectfully requested, as is withdrawal of the objection.

III. Objection to the Specification

The Specification was objected to as assertedly failing to describe features of claim 11. Applicants respectfully traverse this assertion. The Office Action refers to features including “query,” “categorized query,” “category estimates,” “categories,” and “comparison.” However, it is respectfully submitted that none of these features is present in claim 11. Withdrawal of the objection to the Specification is therefore respectfully requested.

Further, the Specification was objected to as assertedly failing to describe features of claim 18. While the objection may not be agreed with, to facilitate matters, the Specification has been amended herein without prejudice to include the feature of --a hardware-implemented computer-readable storing medium-- as stated in claim 18, as suggested by the Office Action.

Moreover, it is noted that there is no requirement for the Specification to describe the features of the claims using the exact terms used in the claims. As stated by the Board in *Ex parte Sorenson*, 3 U.S.P.Q. 2d 1462, 1463 (Bd. Pat. App. Int. 1987) (emphasis added):

[W]e are mindful that appellant’s specification need not describe the claimed invention in *ipsis verbis* to comply with the written description requirement. *The test is whether the originally filed specification disclosure reasonably conveys to a person having ordinary skill that applicant had possession of the subject matter later claimed. . . .*

Withdrawal of the objection to the Specification is therefore respectfully requested.

IV. Objection to the Drawings

The drawings were objected to under 37 C.F.R. 1.83(a) as assertedly failing to show every feature of the invention specified in the claims, particularly the feature of “a hardware-implemented computer-readable storing medium” as recited in claim 18.

As regards the objection to the drawings, while 37 C.F.R. § 1.83(a) requires the drawings to show every feature specified in the claims, it also provides that “conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be” -- but are not required to be -- “illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation.” The feature of a hardware-implemented computer-readable storing medium need not be illustrated since a detailed illustration thereof is not essential for a proper understanding of the claimed subject matter. It is respectfully submitted that those of ordinary skill in the art would properly understand the above features disclosed in the description and the claims, without need for further illustration.

In view of all of the foregoing, withdrawal of the objection to the drawings is respectfully requested.

V. Rejection of Claim 18 Under 35 U.S.C. § 101

Claim 18 stands rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. The Office Action states that “[w]ireless signals/waves are not statutory.” (Office Action, p. 6). While the rejection may not be agreed with, to facilitate matters, claim 18 has been amended herein without prejudice to recite “a hardware-implemented computer-readable storing medium.” Support for this amendment may be found in the Specification, e.g., at page 2, lines 19 to 20; page 5, lines 1 to 5; and page 6, lines 12 to 14, and 20 to 22.

Accordingly, it is respectfully submitted that claim 18 is directed to statutory subject matter.

Withdrawal of the rejections to these claims is therefore respectfully requested.

VI. Rejection of Claims 1 to 27 Under 35 U.S.C. § 103

Claims 1 to 27 stand rejected under 35 U.S.C. § 103 as unpatentable over the combination of U.S. Patent Application Publication No. 2003/0208767 (“Williamson et al.”) and U.S. Patent Application Publication No. 2004/0003097 (“Willis et al.”). It is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable any of the present claims for at least the following reasons.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). As clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As explained herein, the Office Action does satisfy these requirements as to all of the features of the claims.

Each of claims 1, 18, and 19 recites, *inter alia*, the following:

. . . receiving from a user a user profile which identifies preferred media distribution sources . . . searching a plurality of media distribution source types for media content based on the at least one search criteria and the user profile . . . generating, from results of the searching, a schedule including scheduling information regarding the media content; and displaying the schedule to the user.

Thus, claims 1, 18, and 19 provide novel and counter-intuitive features in which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, it is noted, often are scheduled in different manners. For example, movie theatre

schedules include gaps as compared to TV program schedules which are, for the most part, continuous. Neither Williamson et al. nor Willis et al., whether considered alone or in combination, disclose or suggest these features.

The Office Action admits that Williamson et al. do not disclose searching a plurality of media distribution source types for media content based on search criteria and a user profile, and instead refers to Willis et al. as assertedly disclosing searching for content from a plurality of media distribution source types.

However, as explained in Applicants' previous Responses, Willis et al. provide a portal type system in which user preferences are used for filtering articles from different sources. The articles are provided to the user in a portal setting in which the different article categories are presented in different frames. In order to perform the filtering, a content generator generates for each obtained article a new version including searchable metadata. Subsequently, a content based router 130 filters the articles in accordance with user preferences and accordingly displays the articles in the portal. *See* Willis et al., e.g., pars. 0085 – 0096. Willis et al. do not disclose or suggest **generating a schedule** based on the filtered articles. Further, Willis et al. do not disclose providing its portal information **responsive to search criteria**. Instead, obtained articles are sorted based on a set of user preferences. The different articles are determined to be relevant based on different ones of the set of preferences and are provided without regard to particular search criteria.

With respect to the feature of providing a schedule, the Office Action appears to rely on Williamson et al. as assertedly disclosing this feature. However, as the Office Action admits and as noted above, a schedule provided by Williamson et al. are not of results of a search of a plurality of media distribution source types. Even if the system of Williamson et al. would be modified based on the features of Willis et al. of providing a portal page including data from multiple distribution sources, the modified system would at most provide a portal in which obtained articles, one of which may include a television program schedule, are filtered in accordance with user preferences and then provided to the user in portal frames in accordance with the information category to which the obtained articles belong. Such a modified system would not provide the features of **generating a schedule from results of searching a plurality of media distribution source types, in which the schedule includes scheduling information regarding the media content from the plurality of media distribution source types**. Instead, the modified system may merely include a conventional television program schedule among the portal frames, but would not include a schedule including scheduling information from the plurality of media distribution

source types. Therefore, the modified system would not disclose or suggest the features of any of claims 1, 18, and 19, particularly, the features of **generating a schedule in response to a search request**, where **the schedule includes scheduling information of results obtained from searching a plurality of media distribution source types**.

The applied references do not include any suggestion to further modify the system to provide the features of claims 1, 18, and 19 according to which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types, which, as noted above, often are scheduled in different manners. Therefore, one skilled in the art would not arrive at the features of any of claims 1, 18, and 19 based on the combination of Williamson et al. and Willis et al. without an improper hindsight reconstruction based on Applicants' disclosure.

Accordingly, the combination of Williamson et al. and Willis et al. does not render unpatentable any of claims 1, 18, and 19.

Claim 16 includes subject matter analogous to that of claims 1, 18, and 19 and is therefore patentable for at least the same reasons set forth above in support of the patentability of claims 1, 18, and 19.

As for claims 2 to 15, 20, and 23 to 25 which ultimately depend from claim 1 and therefore include all of the features recited in claim 1, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable these dependent claims for the same reasons set forth above in support of the patentability of claim 1. *In re Fine, supra* (any dependent claim that depends from a non-obvious independent claim is non-obvious).

As further regards claim 23, the claim recites "generating . . . an intermediate results page including a plurality of media content titles . . . wherein the schedule is generated responsive to a selection of one of the titles of the intermediate results page and includes scheduling information exclusively regarding the selected title." None of the cited sections (or any other section) of Williamson et al. or Willis et al. disclose or suggest a schedule including scheduling information exclusively regarding a selected title. Further, claim 23 recites that the schedule includes scheduling information pertaining to multiple ones of the plurality of media distribution source types. The cited references do not disclose scheduling information regarding a selected title that pertains to multiple media distribution source types. For these additional reasons, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 23, and therefore does not render unpatentable claim 23 for these additional reasons.

As further regards claim 25, the claim recites that “the user profile identifies, for each of a plurality of source types, respective preferred media distribution sources.” The Office Action refers to pars. 0084 and 0102 of Williamson et al. as assertedly disclosing this feature. The cited sections of Williamson et al. are unrelated to preferred media distribution sources. Moreover, the Office Action apparently intends to refer to currently broadcast and upcoming programs as disclosing a plurality of source types. However, the cited sections of Williamson et al. do not disclose identification of respective preferred distribution sources for the currently broadcast programs and upcoming programs. For this additional reason, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 25, and therefore does not render unpatentable claim 25 for this additional reason.

As for claim 17, which depends from claim 16 and therefore includes all of the features recited in claim 16, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 16. *Id.*

As for claim 21, which depends from claim 18 and therefore includes all of the features recited in claim 18, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 18. *Id.*

As for claim 22, which depends from claim 19 and therefore includes all of the features recited in claim 19, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 19. *Id.*

Claim 26 relates to a method for searching for media content and, as herein amended without prejudice, recites, *inter alia*, the following:

... generating, from results of the searching, a results page including: a first section having generic information of the results that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types; and for each of the media distribution source types from which the results were obtained, a respective second section having information specific to the respective media distribution source type, including all of the results obtained from the respective media distribution source type.

The Office Action refers to sections 820, 825, 830, 835, 840, and 850 of figure 8 of Willis et al. as assertedly disclosing the recited first section. However, the

referenced sections are discrete sections, each one including information specific to its respective source. The combination of the sections thus does not include information generic to all of the media distribution source types and does include information specific to each separate media distribution source type. Thus, the referenced sections, whether viewed alone or in combination, do not disclose a section having generic information that applies to all of the media distribution source types from which the results were obtained and not including information that is specific to any one of the media distribution source types, as provided for in the context of claim 26.

Further, the Office Action refers to section 810 of figure 8 of Willis et al. as assertedly disclosing the recited second section. However, Applicants fail to understand how the cited section is considered to constitute a second section, for each media distribution source type, including all the results from the respective media distribution source type. Instead, Willis et al. merely indicate a single central location for a highest ranking article, but nowhere do Willis et al. disclose providing all the results from each respective media distribution source type in a second section for each media distribution source type. Thus, Willis et al. do not disclose, or suggest, for each of the media distribution source types from which the results were obtained, a respective second section having all of the results obtained from the respective media distribution source type, as provided for in the context of claim 26.

Indeed, it is respectfully submitted that the combination of Williamson et al. and Willis et al. does not disclose or suggest these features, so that the combination of Williamson et al. and Willis et al. does not render unpatentable claim 26.

Claim 27 relates to a method for searching for media content and recites, *inter alia*, the following:

*. . . responsive to a request for media content suggestions,
periodically: searching for media content of a plurality of media
distribution source types, the searching being in accordance with at
least one of a user viewing history and a user purchase history.*

The Office Action admits that the cited references do not disclose a searching in accordance with a user purchase history, and instead refers to par. 0084 of Williamson et al. as assertedly disclosing a viewing history. The cited section refers to categorization of a user's reserved programs and is unrelated to a viewing history. Indeed, the cited section merely seeks to aid a user in locating programs based on categories. Thus, Williamson et al. do not disclose or suggest a user viewing history, as provided for in the context of claim 27.

Accordingly, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 27, so that the combination of Williamson et al. and Willis et al. does not render unpatentable claim 27.

Withdrawal of this obviousness rejection is therefore respectfully requested.

VII. Rejection of Claim 29 Under 35 U.S.C. § 103

Claim 29 stands rejected under 35 U.S.C. § 103 as unpatentable over the combination of Williamson et al., Willis et al., and U.S. Patent Application Publication No. 2002/0078382 ("Sheikh"). It is respectfully submitted that the combination of Williamson et al., Willis et al., and Sheikh does not render unpatentable claim 29 for at least the following reasons.

Claim 29 includes subject matter analogous to that of claim 1 and is therefore allowable for at least essentially the same reasons as claim 1, since Sheikh does not correct the critical deficiencies of the combination of Williamson et al. and Willis et al. noted above in support of the patentability of claim 1.

Furthermore, claim 29 relates to a method for searching for media content and recites, *inter alia*, the following:

*... if the searching [based on the at least one search criteria and the user profile including based on the identification of the preferred media distribution sources of the user profile] returns results:
generating, from the results of the searching, a schedule including scheduling information regarding the media content of the returned results; and
displaying the schedule to the user; and
if the searching does not return any results:
periodically searching the plurality of media distribution source types for media content, the periodic searching being unconstrained by at least one of the at least one search criteria, the user profile, and the identification of the preferred media distribution sources of the user profile ...*

Thus, claim 29 provides for repeating a search using different criteria if the search initially does not return results. The Office Action refers to par. 0053 of Sheikh as assertedly disclosing the feature of “if the searching does not return any results: periodically searching the plurality of . . . types for media content, the periodic searching being unconstrained” However, Sheikh merely indicates that, if no result is returned, a sensor is re-executed. Thus, the combination of Williamson et al., Willis et al., and Sheikh does not disclose or suggest all of the features of claim 29 for this additional reason, so that the combination of Williamson et al., Willis et al., and Sheikh does not render unpatentable claim 29 for this additional reason.

Withdrawal of this obviousness rejection is therefore respectfully requested.

VIII. New Claim 30

Claim 30 has been added herein. It is respectfully submitted that new claim 30 does not add any new matter and is fully supported by the present application, including the Specification. Claim 30 includes subject matter analogous to that of claim 1 and is therefore allowable for at least essentially the same reasons as claim 1.

IX. Conclusion

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

Dated: December 16, 2008

By: /Aaron Grunberger/
Aaron Grunberger
Reg. No. 59,210

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO 26646